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Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

MASONRY INDUSTRY TRUST	)	
ADMINISTRATION, INC., an Oregon	)	Case No.
corporation,	)	
	)	COMPLAINT
Plaintiff,	)	(ERISA and LMRA Actions)
	)	
v.	)	
	)	
DIVERSIFIED MASONRY, LLC, a foreign	)	
limited liability corporation,	)	
	)	
Defendant.	)	
	)	

Plaintiff alleges:

1.

Plaintiff, Masonry Industry Trust Administration, Inc., is an Oregon corporation, authorized to do business in Oregon, and is the administrative agent for the Masonry Industry Funds described below, and Plaintiff is authorized to bring this action on behalf of the Funds and Employees described below.

2.

The Funds accept and administer contributions from employers to cover health and welfare, pension, vacation, apprenticeship, training, and other related needs of employees and

employers within the purpose of the various agreements governing the Funds (collectively referred to as the “Agreements”). The Funds are comprised of the Northwest Bricklayers Pension Trust Fund, the Masonry Welfare Trust Fund, the Apprentice and Journeyman Training Trust Fund, the Masonry Vacation Trust Fund, and various other funds serving the needs of employees and employers (collectively referred to as the “Funds”). The Funds also include Bricklayers and Allied Craftworkers, Local No. 1 of Oregon, which represents the employees (collectively referred to as the “Employees”) for the purposes of collecting unpaid wages and benefits, who are Mike Barker, Matt Blandon, Zachary Carlisle, Harold Connor, Kevin Diamond, Roderick Diamond, Richard Henry, John Holt, Dan Johnson, Victor Martinez, Bob McCool, John McCool, Tyler Parke, Jason Pohle, Dan Pershall, Jennifer Risling-Hexter, Jeff Sears, and Rick Siers. The Funds in part were created pursuant to § 302(c) of the Labor Management Relations Act, 29 USC § 186(c).

3.

Defendant Diversified Masonry, LLC is a foreign limited liability company.

4.

Jurisdiction is conferred on this Court by 29 USC § 1132(e) of the Employee Retirement Income Security Act of 1974, as amended (hereinafter referred to as “ERISA”), 29 USC §185(c) of the Labor Management Relations Act of 1947, as amended (hereinafter referred to as “LMRA”), and by the applicable Agreement.

5.

Venue of this action is properly laid in the District Court of Oregon. Plaintiff is an employee benefit plan within the meaning of 29 USC § 1001 et seq, and is administered in Multnomah County, the State of Oregon.

6.

At all times material to this action, Defendant was party to a written collective bargaining agreement which covers employees in an industry affecting commerce within the meaning of 29 USC § 185, et seq.

#### CLAIM FOR RELIEF

(ERISA and LMRA Claims)

7.

At all times material herein, Defendant was signatory to a collective bargaining agreement with Masonry Industry Trust Funds which required Defendant to pay wages and to make contributions to the Employees and the Funds on behalf of their employees performing work covered under the collective bargaining agreement.

8.

Defendant has further agreed to be bound by the terms of the Agreements.

9.

Defendant has failed to pay all amounts owing for wages and contributions on all covered employees as required under the collective bargaining agreement, the Agreements, 29 USC § 186 of the LMRA, and 29 USC § 1145 of ERISA, in an estimated amount of not less than \$147,882.50.

10.

Plaintiff reserves the right to amend this Complaint to provide for the specific amount owing, upon provision of all records sought.

11.

Under the Agreements, 29 USC § 1132(g) and other applicable laws, Defendant must pay

interest on any unpaid contributions and wages from the due date until paid at a rate of 18 percent per annum or as set by law or applicable agreement.

12.

Under the Agreements and 29 USC § 1132(g), Defendant must pay liquidated damages of 10 percent on the unpaid contributions or the amount equivalent to the unpaid interest, whichever is greater, or as otherwise set by applicable agreement.

13.

Under the Agreements and 29 USC § 1132(g), Defendant must pay reasonable attorney fees and costs, including reasonable audit fees.

WHEREFORE, Plaintiff prays for a judgment, decree, and order of this Court as follows:

1. For a judgment in the amount of any unpaid contributions and wages found due, plus liquidated damages and interest on the amounts found due as provided for in the Agreements and by law;
2. For a judgment for reasonable attorney fees and costs, including reasonable audit fees; and
3. For such relief as the Court deems just and equitable.

DATED this 25<sup>th</sup> day of November, 2018.

Respectfully submitted,

BRADLEY L. MIDDLETON, P.C.

/s/ Bradley L. Middleton

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